

EXHIBIT WW

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November 6, 2019

Mr. John Flannery
Wilson Elser Moskowitz Edelman & Dicker LLP
1133 Westchester Ave.
White Plains, NY 10604

Re: Grace Baptist Church— November 7, 2019 Town Board Meeting

Dear Counsel,

As you know, we are counsel to Ateres Bais Yaakov Academy of Rockland (“ABY”) in connection with its pending litigation against Clarkstown (the “Town”) concerning ABY’s purchase of the Grace Baptist Church (the “Property”). We have reviewed the meeting agenda for Clarkstown’s November 7, 2019 Town meeting, which includes items relating to the Town’s plans to purchase the Property and related ancillary votes. In advance of this meeting, we write to put you on notice of the legal consequences that will arise should the Town vote to authorize the purchase of the Property.

Clarkstown’s purchase of the Property will culminate an orchestrated, calculated, and discriminatory effort to foreclose any meaningful opportunity for ABY to purchase the Property and effectively ostracize ABY from the Town’s community. We provide here just a few of the sordid facts that are publicly known; other details that are yet unknown will invariably be uncovered through discovery in ABY’s plenary action. At a Town Board Meeting on November 27, 2018, Supervisor George Hoehmann tipped his hand as to what would eventually become the Town’s strategy, publically declaring the Town’s “interest in this property for Town usage and the school district is interested in the parking located there,” and pledging that while Clarkstown could not directly interfere with the private sale, the “Town will strongly enforce our zoning laws and our building code[.]” It became clear to ABY that the Town planned an all-out blitz of administrative obstacles to prevent ABY’s purchase of the Property and clear a path for its own purchase.

In direct response to learning of ABY’s contract to purchase the Property, a new citizens’ group formed called “Citizens United to Protect our Neighborhood” (or “CUPON” of Greater Nanuet) for the express purpose of preventing ABY from purchasing the Property and operating an Orthodox-Jewish school on

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the premises.¹ In support of that cause, CUPON established a Facebook page, held meetings at schools operated by the Nanuet UFSD, and hired counsel. CUPON members' discriminatory and blatantly anti-Semitic reasons for opposing ABY's purchase were so egregious that CUPON's counsel felt it necessary to tell CUPON members at a meeting that they had "adversaries," not "enemies," and that they should not operate on the basis of "hate." He also told the crowd, "If you can't get that hate out of your heart, then please keep your mouth shut."² CUPON has also raised money through a "GoFundMe" campaign with the express intent of preventing ABY's purchase of the Property, and created an online petition entitled "Petition against Grace Baptist Church becoming a school."

At Town Board meetings, various individuals from CUPON and otherwise, including the Superintendent of the Nanuet UFSD, expressed purported concerns about ABY's impact on increased traffic around the school. These were canards. In fact, ABY would only use a total of eight buses; what is more, a school is also a "permitted use" just across the street from the Property – the same street that cars and buses drive on where this supposed traffic problem was looming – putting the lie to any supposed concerns about traffic impacts.

CUPON's rabid sentiments found support at the highest levels of Clarkstown. Multiple Clarkstown elected officials, including Supervisor Hoehmann, met with CUPON in furtherance of a discriminatory campaign against ABY. In a now-deleted post by the Rockland County Republican Party³ on its official Facebook page, not only was it confirmed that Supervisor Hoehmann and "a number of elected officials" were present and spoke at a January 10, 2019 CUPON meeting, but also that all attendees participated in a "2 hour presentation that focused on how the community can protect themselves from a hostile invasion" (emphasis added). The Town, in concert with CUPON and CUPON's counsel, created an elaborate plan to block ABY's purchase of the Property, which included a feckless effort to train CUPON members on methods for appearing non-discriminatory and facially neutral so to avoid legal scrutiny into their invidious intent.

Despite these hurdles, ABY pushed forward with its application in conformance with necessary procedures, only to have its permit denied by the Town Building Inspector on January 11, 2019 (the day

¹ Both CUPON's GoFundMe page and a January 11, 2019 Rockland County Republican Party post on its official Facebook page clearly state that CUPON of Nanuet was formed in response to the announcement of the ABY-GBC sale.

² A video of Stephen Mogel, Esq.'s presentation was posted to CUPON of Greater Nanuet's Facebook page at <https://www.facebook.com/CTWTDWYTK/videos/2222326208086174/>, at 3:10.

³ This Facebook post has been filed as an exhibit in ABY's pending action against the Town in Rockland County Supreme Court, and is also attached to this letter for your reference as Exhibit A.

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after the CUPON meeting with Supervisor Hoehmann and other Clarkstown officials) for reasons we have shown were arbitrary, capricious, erroneous and contrary to applicable law.⁴

ABY then submitted an appeal of the Building Inspector's decision to the Clarkstown Zoning Board of Appeals (the "ZBA"). The ZBA declined to even *schedule a hearing*, and instead responded with a new and wholly unnecessary requirement for ABY to submit a survey of the Property, which ABY submitted at great expense. These delay tactics, combined with the continued discriminatory rhetoric by the Town's residents on social media and elsewhere,⁵ created a toxic environment of uncertainty around ABY's ability to close on the Property. This environment caused the Rockland County Industrial Development Agency to cancel a public hearing on IDA funding assistance to ABY – assistance that appears assured until the Town's interference. Without that assistance, ABY's financing arrangements to purchase the Property evaporated, and ABY was unable to close.

That was, of course, the plan all along.

Clarkstown's next move was to wrongly claim that ABY's inability to close on the Property – a scenario directly caused by Clarkstown's illegal tactics – rendered it unable to challenge the Town and the ZBA's blatantly unlawful actions. Now, acting with the mistaken belief that it successfully squashed ABY's purchase of the Property, the Town swooped in to seek to purchase the Property for itself.

Clarkstown's plan to purchase and its purported plans for the Property, as described in the November 7, 2019 Town Board meeting agenda, illustrate that the excuses and rationales offered against ABY's purchase of the Property were false all along. According to the Town's plans, the Property is to become a "community center, meeting facility, parking and similar uses suitable to the existing structure..."⁶ Clarkstown affirms that this is a "commercial" use, yet also claims it is a "permitted use under the zoning regulations," and is "consistent with the predominant character of the existing built or natural

⁴ See ABY's Article 78 Petition and Declaratory Judgment Complaint at 14 – 17; ABY's Memorandum of Law in Support of its Article 78 Petition and Declaratory Judgment Complaint at 16-20.

⁵ For example, immediately following ABY's ZBA appeal, Clarkstown residents took to social media to express their true feelings, stating, among other things: "They are nothing but *parasites*! They don't want to follow the rules, they are disgusting! Unfortunately what [] said was pretty close to what will happen! They will hire lawyers for the *cult* and tirelessly drag it through the courts until they get the desired results! #monseycowboys #parasites #hopetheyallgetmeasles"; "You better before the[y] *infest* Pearl River! Good luck!" See ABY's Article 78 Petition and Declaratory judgment Complaint at 19 (emphasis added).

⁶ November 7, 2019 Town Board Full Agenda at 4.

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landscape.”⁷ Apparently, the Town seeks to hold itself to a different standard—a commercial community center and meeting facility with a large parking lot is a permitted use consistent with the residential nature of the neighborhood, but, according to the Town, a school is not.

This about-face exposes Clarkstown’s actual plan all along—to block a religious organization from purchasing the property, and to then buy it at a significant premium to proactively prevent a “hostile invasion.” Unfortunately, this is not a new phenomenon in Clarkstown, as the Town has engaged in a pattern of discriminatory behavior of blocking religious organizations from purchasing property in the Town under the guise of preventing “overdevelopment,” and subsequently purchasing the property at issue itself. For example, in 2017, the Town purchased property in Valley Cottage for the express purpose of preventing a religious organization from purchasing the property and constructing a church there. See <https://www.lohud.com/story/news/local/rockland/clarkstown/2017/11/02/clarkstown-proposed-church/825360001/>.

The Town’s actions have directly violated ABY’s constitutional rights, as well as other statutory rights, protections, and obligations—including RLUIPA and RICO. Make no mistake: should Clarkstown’s Town Council vote to authorize the sale, ABY is prepared to take all appropriate measures to vindicate its constitutional and federal rights.

We are aware that the Town has an Executive Session scheduled for Thursday to discuss litigation. We request that this letter be included in the package sent to all Board members, and that the Town’s insurance carrier be put on notice of this. We also demand that the Town retain all documents concerning this claim.

Sincerely,

Yehudah L. Buchweitz

cc:

Mr. Thomas Mascola
Clarkstown Town Attorney
10 Maple Ave.
New City, NY 10956

Office of the New York State Attorney General

⁷ *Id.* at 4-5.

Exhibit A

[Rockland County Political Party Facebook Post
Found at Exhibit O]